



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-129260-16]

RIN 1545-BN96

Disclosure of Returns and Return Information in Connection with Written Contracts or Agreements for the Acquisition of Property or Services for Tax Administration Purposes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 6103(n) of the Internal Revenue Code (Code) to authorize the Department of State to disclose returns and return information to its contractors who assist the Department of State in carrying out its responsibilities under section 32101 of the Fixing America's Surface Transportation (FAST) Act. The FAST Act requires the IRS to notify the Department of State of certified seriously delinquent tax debts, and the Department of State procures services from outside contractors in connection with carrying out its responsibilities under the FAST Act.

DATES: Written and electronic comments and requests for a public hearing must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-129260-16), Room 5207, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (REG-129260-16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-129260-16).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Brittany Harrison of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317-6833; concerning the submission of comments and requests for a public hearing, Regina Johnson, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) under section 6103(n) of the Code. On December 4, 2015, the FAST Act, Public Law 114-94, 129 Stat. 1312, was enacted into law. Section 32101 of the FAST Act adds section 7345 to the Internal Revenue Code. Section 7345 requires the IRS to notify the Department of State of tax debts that the IRS certifies as seriously delinquent. Section 7345(b) generally defines a seriously delinquent tax debt as an unpaid, legally enforceable Federal tax liability of an individual that has been assessed, is greater than \$50,000 (as indexed for inflation), and with respect to which a notice of lien has been filed pursuant to section 6323 and the administrative rights under section 6320 with respect to such filing have been exhausted

or have lapsed, or a levy has been made pursuant to section 6331. Section 32101 of the FAST Act generally requires the Department of State to deny a passport (or the renewal of a passport) in the case of an individual if notified by the IRS that the individual has been certified as having a seriously delinquent tax debt and permits the Department of State to revoke a passport previously issued to such person.

Under section 6103(a) of the Code, returns and return information are confidential unless the Code otherwise authorizes disclosure. The FAST Act added section 6103(k)(11), which provides that, upon certification under section 7345, the IRS is authorized to disclose return information to the Department of State with respect to a taxpayer who has a seriously delinquent tax debt. Specifically, upon certification under section 7345, section 6103(k)(11)(A) authorizes the IRS to disclose to officers and employees of the Department of State (i) the taxpayer identity information with respect to the certified taxpayer and (ii) the amount of such seriously delinquent tax debt. Section 6103(k)(11)(A). Section 6103(k)(11)(B) limits the use of return information disclosed under subparagraph (A) for the purposes of, and to the extent necessary in, carrying out the requirements of section 32101 of the FAST Act.

The Department of State engages contractors to assist in carrying out its responsibilities with respect to passports, including responsibilities related to implementation of section 32101 of the FAST Act. Because such contractors are not “officers and employees” of the Department of State, section 6103(k)(11) of the Code does not authorize the disclosure of return information to such contractors.

Section 6103(n) of the Code authorizes, pursuant to regulations prescribed by the Secretary, the disclosure of returns and return information to any person for

purposes of tax administration to the extent necessary in connection with, among other things, a written contract for services. The definition of the term “tax administration” includes “the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes....” Section 6103(b)(4). Because implementation of the FAST Act relates to the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws and related statutes, disclosure of return information for the purpose of carrying out responsibilities under the FAST Act is a tax administration purpose.

The Treasury regulations provide that, pursuant to the provisions of section 6103(n) of the Code and subject to certain conditions, officers and employees of the Treasury Department, a State tax agency, the Social Security Administration, or the Department of Justice are authorized to disclose returns and return information to any person or to an officer or employee of the person, for purposes of tax administration (as defined in section 6103(b)(4)), to the extent necessary in connection with a written contract or an agreement for the acquisition of the providing of services. Section 301.6103(n)-1(a)(1). Any person, or officer or employee of the person, who receives such disclosed returns or return information may further disclose the returns or return information to its own officers or employees whose duties or responsibilities require such information in order to provide the services. Section 301.6103(n)-1(a)(2)(i). When authorized in writing by the IRS, such person, or officer or employee of the person, may further disclose such information to the extent necessary to provide services, including to its agents or subcontractors (or such agents’ or subcontractors’ officers or

employees). Section 301.6103(n)-1(a)(2)(ii). Agents or subcontractors (or their officers or employees) who receive such returns or return information may further disclose the returns or return information to their officers or employees whose duties or responsibilities require the returns or return information for a purpose described in §301.6103(n)-1(a). Section 301.6103(n)-1(a)(3). The regulations under section 6103(n) of the Code provide a number of rules related to limitations on such disclosures, penalties potentially applicable to recipients of returns and return information, notification requirements applicable to recipients of returns and return information, and safeguards requirements. See section 301.6103(n)-1(b), -1(c), -1(d), -1(e).

These proposed regulations add the Department of State to the list of agencies in current §301.6103(n)-1(a)(1) whose officers and employees may disclose returns and return information to any person or to an officer or employee of such person for tax administration purposes to the extent necessary in connection with a written contract for the acquisition of property or services. These proposed regulations authorize the Department of State to disclose returns and return information to its contractors providing services in connection with the revocation or denial of passports pursuant to the requirements of section 7345 and the FAST Act.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

The purpose of these regulations is to allow the Department of State to share tax return information with its contractors for tax administration purposes. As a recipient of

tax return information, the Department of State is required to comply with the reporting and other requirements under section 6103(p)(4). The Department of State is also responsible for the training and inspection of its contractors and ensuring that all safeguarding standards are met. These proposed regulations do not impose a reporting burden on the Department of State's contractors and will not require the contractors to file information with the IRS. Because the proposed regulations do not impose a collection of information on entities other than the Department of State, they do not impose a collection of information on small entities. Accordingly, it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Pursuant to section 7805(f) of the Code, these proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for Public Hearing

Before the regulations proposed herein are adopted as final regulations, consideration will be given to any electronic and written comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments submitted will be made available at www.regulations.gov or upon request. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the *Federal Register*.

Drafting Information

The principal author of these proposed regulations is Brittany Harrison of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Sections 6103(n)-1(a)(1) and (e)(4)(i) are amended by removing the language “or the Department of Justice” and adding the language “the Department of Justice, or the Department of State” in its place.

Par. 3. Section 301.6103(n)-1(g) is amended to read as follows:

(g) Applicability date. This section is applicable on June 5, 2007, except that paragraphs (a) and (e)(4)(i) of this section apply to the Department of State on or after **[THE DATE THESE PROPOSED REGULATIONS ARE FILED WITH THE FEDERAL REGISTER]**.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

BILLING CODE 4830-01-p

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